

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 16, 2022**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DAVID A.,

Plaintiff,

v.

KILOLO KIJAKAZI, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

No. 1:18-cv-03189-SMJ

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Before the Court is Magistrate Judge Ekstrom's June 23, 2022 Report and Recommendation, ECF No. 28. Judge Ekstrom recommends that the Court grant Plaintiff David A.'s Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b), ECF No. 25. The Court granted Plaintiff's Motion for Summary Judgment and remanded the case for an immediate calculation and award of benefits on March 16, 2020. ECF No. 16. Judgment was entered for Plaintiff. ECF No. 17. Plaintiff and his auxiliaries were awarded back benefits in the amount of \$206,214.00. ECF No. 25 at 3. Defendant did not object to the calculation of the past due benefits. ECF No. 27. The total amount requested, \$51,553.50, less an offset of \$6,563.24 for EAJA attorney fees previously received by Plaintiff's counsel, results in a Section 406(b) award of \$44,990.26. Defendant did not file any objections to the Report and Recommendation.

1 After reviewing the Report and Recommendation, and relevant authorities,  
2 the Court finds the Magistrate Judge's findings are correct. Therefore, the Court  
3 adopts the Report and Recommendation in its entirety.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 1. The Report and Recommendation, **ECF No. 28**, is **ADOPTED** in its  
6 entirety.

7 2. Plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406 (b),  
8 **ECF No. 25**, is **GRANTED**.

9 3. The Social Security Administration release to Plaintiff's counsel, Mr.  
10 D. James Tree, Section 406(b) attorney fees in the amount of  
11 **\$44,990.26**, and any additional funds withheld by the Social Security  
12 Administration for the payment of attorney fees be released to  
13 Plaintiff.

14 4. The Clerk's Office is directed to **CLOSE** the file.

15 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
16 provide copies to all counsel and Magistrate Judge Ekstrom.

17 **DATED** this 16<sup>th</sup> day of August 2022.

18 

19 SALVADOR MENDOZA, JR.  
20 United States District Judge